

REMARKS

Entry of the foregoing and reconsideration of the application identified in caption as amended, pursuant to and consistent with the Rules of Practice in Patent Cases, and in light of the remarks which follow, is respectfully requested.

By the present amendment claim 1 has been amended, and claim 8 has been cancelled, so that claims 1-7, 9-12, 15-17, and 25-35 will be pending upon entry of the present amendment.

Claims 1-12, 15-17 and 25-35, now represented by claims 1-7, 9-12, 15-17, and 25-35, stand rejected under 35 U.S.C. 103(a) as being obvious over Moon in view of Roach. This rejection is respectfully traversed.

Moon discloses an electrospray device 100 in Figure 4. As can be seen in Figure 5, voltage is applied to the fluid via capillary 52 and to the electrospray device via an electrode positioned on the substrate. Contrary to the Examiner's reading of Moon, item 108 is an injection surface of the device, not a housing; 112 is an ejection surface of the device, not a chip holder; 119 is an electrode of the device, not the electrospray chip, rather items 108, 112 and 119 are all components of the electrospray device. As noted by the Examiner, Moon fails to disclose or suggest an automated apparatus for providing the electrospray device with sample or electrical current.

Roach discloses an automated apparatus including a probe carriage mounted to a housing and moveable between a sample source and a microchip, i.e., a substrate containing channels. As Roach does not disclose or suggest electrospraying of the sample, the microchip is not equipped with a nozzle, nor is there any teaching to provide a voltage differential between the fluid and the microchip, which is required to create an electrospray. Thus, while Roach may disclose an automated apparatus capable of providing a microchip with electrical current, there is no teaching or suggestion for providing voltage to the microchip while simultaneously providing insulated voltage to the fluid sample. Moreover, there simply is no teaching of how one would modify the apparatus of Roach to do so.

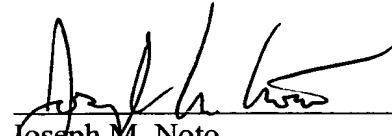
Accordingly, it would not have been obvious to one of ordinary skill at the time of the invention to provide an automated apparatus including a probe carriage mounted to a housing and moveable between a sample source and an electrospray device which provides a voltage differential between the fluid sample and the insulated electrospray device, which is capable of creating an electrospray of sample in an automated fashion.

Consequently, claims 1-7, 9-12, 15-17, and 25-35 are not rendered obvious from the teachings of the cited prior art. Withdrawal of the record rejection 35 U.S.C. § 103(a) for obviousness over Moon in view of Roach is respectfully requested.

In view of all of the foregoing, applicants submit that this case is in condition for allowance and such allowance is earnestly solicited.

Respectfully submitted,

Date: November 2, 2005



Joseph M. Noto
Registration No. 32,163

NIXON PEABODY LLP
Clinton Square, P.O. Box 31051
Rochester, New York 14603-1051
Telephone: (585) 263-1601
Facsimile: (585) 263-1600

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

- ☒ deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop AF, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450
- ☐ transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (703) _____.

November 2, 2005
Date



Signature

Ruth R. Smith
Type or Print Name